

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3237 of 1987

with

CICIL APPLICATION NO.13905/99

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

RAMJAYSINH PARASNATHSINGH

Versus

STATE OF GUJARAT

Appearance:

MR IS SUPEHIA for Petitioner

MR SP HASURKAR for Respondent No. 1, 2

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 13/12/1999

ORAL JUDGEMENT

1. In the present petition the petitioner has challenged the dismissal order, dated 6.9.1986 which is at annexure "C" to the petition. Thereafter, the

petitioner has also filed Civil Application No.13905/99 and the petitioner has also challenged the order, dated 20.12.1989 passed by the IGP, Gujarat State(annexure "N" to the petition) and subsequent order, dated 9.9.1991 passed by the State Government rejecting the revision application and confirming the dismissal.

2. The facts giving rise to the present petition are that the petitioner was appointed as an Armed Police Constable in the year 1973. While the petitioner was working as a Constable a chargesheet dated 4.10.1978 was served upon the petitioner on two charges, i.e. (i) on 17.7.78 the petitioner had quarrelled with the Head Constable Jaylal and gave him slaps and kicks and (ii) on 25.7.78 the petitioner remained absent from the parade and hence he was kept in the orderly room and he was awarded penalty of extra duty and at that time the petitioner got annoyed and used filthy language. Thereafter departmental enquiry was initiated wherein the petitioner was found guilty and a show cause notice dated 5.11.1980 was issued to him asking him to show cause why the penalty of dismissal should not be imposed. Subsequently, the petitioner came to be dismissed from service vide order, dated 29.11.1980.

3. Being aggrieved with and dissatisfied by the aforesaid order the petitioner filed the Special Civil Application No.2909/83 which came to be allowed by this court by judgment and order dated 10.4.86 and order of dismissal came to be quashed and set aside and the petitioner came to be reinstated in service. Since the order of dismissal was quashed on a technical ground of nonsupply of inquiry report, the enquiry proceedings proceeded further. The enquiry report was made available on 2.8.86 and the petitioner was given memo dated 2.8.86 calling upon him to give reply within three days. By letter dated 4.8.86 the petitioner asked for true copy of the enquiry report since the one supplied contained several mistakes. Thereafter the authority by its communication dated 13.8.86 informed the petitioner that the copy of the enquiry report was being sent to the petitioner and if there is any doubt he should get necessary details from "H" branch within three days and he should also submit reply to the show cause notice within three days failing which final order would be passed. Before the petitioner could give reply to the show cause notice, the respondent No.2-Deputy Commissioner of Police passed order, dated 6.9.86 dismissing the petitioner from service. Being aggrieved and dissatisfied with the aforesaid order the petitioner preferred appeal before the Commissioner of Police,

Ahmedabad city and the same came to be rejected by order dated 13.4.87 and the copy of the same was received by the petitioner on 27.6.87. Being aggrieved and dissatisfied with the said order the petitioner preferred this present petition.

4. Before this court, Mr.I.S.Supehia, Ld.Advocate appearing for the petitioner raised several contentions, and the petitioner has also filed the Civil Application No.13905/99 and challenged the subsequent order, dated 20.12.1989 as well as 9.9.91 passed by the revisional authority.

5. I have noted the contentions raised by Mr.I.S.Supehia, Ld.Advocate appearing for the petitioner. One of the contentions of the petitioner was that the communication dated 13.8.86 wherein he was directed to file reply within three days is not proper and the time is too short and the notice prescribing unreasonable period to file reply is illegal and bad. For that purpose Mr.Supehia, Ld.advocate appearing for the petitioner relied on the judgment of the Supreme Court in the matter of State of Jammu & Kashmir vs Haji Wali Mohammed reported in AIR 1972 SC 2538. Mr.Supehia, Ld.Advocate appearing for the petitioner submitted that though the enquiry report has been supplied on the basis of which enquiry has been made has not been supplied. It is submitted that the adjudicating authority must disclose all the material placed before it and can not suppress any material from the delinquent against whom it is sought to be utilised.

6. In this case, without entering into the merits of the matter, and without expressing any opinion on merits of the matter as to whether the orders passed by the authorities are justified or not, and looking to the facts and circumstances and the contentions raised by the petitioner wherein it has been stated that the order has been passed in violation of rules of natural justice and the fact that the original order as well as the order passed by the appellate authority do not contain reasons dealing with the contentions raised by the petitioner, and also in view of the fact that the revisional authority by its order, dated 9.9.91 dismissed the revision application merely on the ground of limitation and has not dealt with the merits of the matter, I direct the revisional authority, i.e. the State of Gujarat to take into consideration all the legal contentions including the copy of the petition as well as amendment thereto and after taking into consideration the contentions raised by the petitioner those which have

already been raised before this court, to decide the matter in accordance with law . It is clarified that the revisional authority is at liberty to decide the matter on the legal contentions which may be raised by the petitioner at the time of hearing the revision application. This court does not express any opinion either way on merits of the matter and the revisional authority is at liberty to decide the matter in accordance with law.

7. Subject to aforesaid directions, the petition stands disposed of and the rule is discharged.

8. In view of the orders on main Special Civil Application, Civil Application No.13905/99 also stands disposed of. No order as to costs.

13.12.1999 (K.M.MEHTA,J)